

Remarks/Arguments

Claims 1-49 were pending in this application. Claims 4, 6, 7, 16-25, and 42-49 have been withdrawn from prosecution at this time. Claims 9 and 41 have been amended herein. Upon entry of this amendment claims 1-3, 5, 8-15, and 26-41 will be pending for examination. No additional fee is due at this time.

The Examiner has objected to the drawings on a number of grounds. Specifically, with respect to Figs. 1 and 2 the Examiner has objected to the lack of arrows on some connecting lines. These corrections have been made as per the Examiner's suggestions. The Examiner has objected to Fig. 4A due to the inadvertent reuse of reference number 458. The reference number for the D/A converter has been changed to 457. An appropriate correction has been made to the specification in paragraph [0050]. The Examiner has also objected to the fact that this D/A converter is not discussed in paragraph [0050], and an appropriate reference has been inserted. Applicant submits that no new matter is added by these changes, since what is described in the inserted text is clearly shown in the drawing. Corrected formal sheets 1, 2, and 4 of the drawings are included herewith and are labeled as replacement sheets in accordance with the Examiner's request. Please also note that applicant has corrected a typographic error discovered in block 456 of Fig. 4A. Applicant believes that this additional correction will meet with the Examiner's approval.

The Examiner has also objected to Fig. 5 because a determination of whether the air mover has been calibrated is not discussed in the written specification where Fig. 5 is described. Applicant respectfully traverses this objection. Firstly, Fig. 5 does not exactly state this, but rather that calibration is indicated by the user. Secondly, this operation is indeed described in the last sentence of paragraph [0058]. The Examiner has further objected to the fact that reference block 814 is not "expressly described" within the discussion of process 800 in the specification. While not necessarily agreeing with the Examiner, since 814 is included in a range of reference numbers summarily described, a sentence specifically mentioning 814 has been inserted in paragraph [0069]. Applicant again submits that no new matter is introduced by this amendment since the language describes only what is clearly shown in Fig. 8.

The Examiner has made a number of objections to the specification in section 8 of the recent Office Action. While not necessarily agreeing with Examiner, Applicant has tried to be

accommodating and has made all of the changes requested by the Examiner with the following exceptions. With the respect to paragraph [0030], line 9, applicant disagrees with the Examiner's suggestion that the verb "are" should be changed to "is." The subject of this sentence is plural. Thus, "are" is the correct verb. The subject of the sentence is plural because two separate items are described: a sampling media assembly; and a method of using that sampling media assembly. In order to clarify this sentence, Applicant has inserted the term "both." Applicant hopes that this change will meet with the Examiner's approval. With respect to paragraph [0037], line 15, Applicant disagrees with simply amending the noun phrase "user button press" to be a verb phrase. Instead, Applicant has re-written the sentence in a way that will hopefully meet with the Examiner's approval. With respect to paragraph [0048], lines 13-15, Applicant's attorney can not find anything missing from the sentence. Applicant has added a comma in order to help clarify the sentence, but beyond that, it appears to make sense as it is.

The Examiner has objected to claims 9, 30, and 31-36 for various informalities. With respect to claim 9, Applicant has deleted the term "wherein" as the Examiner has suggested. However, with respect to claims 30 and 31, the term "wherein" appears to be appropriate and the Applicant has not made any changes to these claims. With respect to claim 32, and presumably claims 33-36, the Examiner has requested that the phrase "the steps of" be inserted after the term "comprising" in these claims. Applicant respectfully traverses this requirement. The Examiner has not cited any regulation, statute, case law, or M.P.E.P. section that imposes this requirement. In fact, treatises on patent claim drafting suggest leaving this phrase out, due to the possibility that use of term "step" in a claim may invoke 35 U.S.C. § 112 Paragraph 6, which is not Applicant's intent. Applicant's attorney has found many, many issued patents which do not include "the steps of" in method claims as requested by the Examiner. If the Examiner persists in this requirement, the Examiner is respectfully requested to provide citations of authority which support the Patent and Trademark Office now making this requirement of applicants.

The Examiner has rejected claim 41 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Applicant believes that this problem results from a simple typographic error related to the claim dependency. Claim 41 has been appropriately amended and Applicant presumes that this amendment will meet with the Examiner's approval and that this rejection can be withdrawn.

The Examiner has rejected all of applicants claims as lacking novelty under 35 U.S.C. § 102(b) in view of U.S. Patent 3,603,155 to Morris et al. ("Morris"). Applicant respectfully traverses this rejection. For a proper rejection under Section 102, the Examiner must demonstrate that the identical invention is "shown in as complete detail as contained in the....claim," and that the elements are "arranged as required by the claim...." M.P.E.P. § 2131. With respect to claim 1 and other claims dependent there from, the Examiner has failed to meet this burden with respect to Morris because almost none of Applicant's claim recitations are shown in Morris in as complete detail as contained in the claim or arranged as required by the claim. Claims 1-3, 5, 8-15, and 26-31 all recite, either directly or through dependency, "an air moving arrangement disposed to be operable to move air over a sampling media, the air moving arrangement having an adjustable operating speed" and "a control system interfaced to the air moving arrangement." Morris does not disclose any sampling media, only sample bags. Additionally, the Examiner has analogized Morris's blower 16 to applicant's air moving arrangement. Blower 16 of Morris is not arranged to move air over a sampling media, or even into the sampling bags of Morris.

In Morris, the air moving arrangement which feeds air to the sample bags is pump 21. Pump 21 of Morris not variable, but runs at a constant speed. See col. 4, lines 39-43 of Morris. Thus, the air moving arrangement which moves air to a sampling bag in Morris teaches completely away from the air moving arrangement that draws air over a sampling media in applicant's invention as claimed. Pump 21 in Morris is not connected to any kind of control system. There is no provision for feedback control for this air moving arrangement as recited in applicant's claim 2. Note that the air sampling system of Morris consists of intake tube 19, pump 21, sampling bags 24 and 35, and possibly intake 29 interconnected by appropriate tubing. The purpose of pump 16, as well as the other valves and devices interconnected with conduit 14 of Morris is to maintain an environment within the conduit which is comparable to the actual ambient air environment behind an automobile. Sampling tube 19 could be withdrawn from conduit 14, and the sampling functionality completely removed from the system of Morris, and blower 16, conduit 14, the control system of Morris, and the other devices interconnected with the conduit would still function to maintain an appropriate mix of ambient air and exhaust gases within conduit 14. None of these elements have anything to do with sampling.

With respect to claims 32-41, which the Examiner has also rejected under Section 102 as described above, these claims include numerous recitations that are not disclosed in Morris. For example, all of these claims either directly or through dependency recite "calculating a measured air flow based...on at least one of signaling...null offset value, linearity characteristic, and a current environmental reading." Morris does not discuss or even disclose the concepts of a linearity characteristic and a null offset value. Thus, it is impossible for Morris to anticipate any of these claims.

Applicant believes he has responded to the Examiner's concerns, and that the application is in condition for allowance. Reconsideration of this application as amended is hereby requested.

Respectfully submitted,

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